

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	IB Docket No. 18-377
2018 Biennial Review of Telecommunications)	ET Docket No. 18-370
Regulations)	WT Docket No. 18-374
)	

REPLY COMMENTS OF T-MOBILE USA, INC.

T-Mobile USA, Inc.^{1/} hereby submits reply comments in the above-referenced proceedings in response to the comments of Verizon Communications Inc. (“Verizon”) that suggest repeal or modification of several rules administered by the Wireless Telecommunications Bureau.

Approval of Block-for-Block Spectrum Swaps

Verizon recommends that the Commission streamline its consideration of – and afford *pro forma* treatment to – applications for assignment that would only result in “block-for-block” spectrum exchanges.^{2/} T-Mobile agrees. In cases where both parties are already Commission licensees, the Commission has previously assessed their qualification to hold authorizations under the relevant provisions of the Communications Act and its rules. And, where the proposed exchange is solely block-for-block and does not involve any additional spectrum, approval of the exchange will have no impact on competition or spectrum aggregation – the other most significant factors that the Commission generally considers in evaluating whether applications for assignment of wireless authorizations are in the public interest. In order to ensure that

^{1/} T-Mobile USA, Inc. is a wholly-owned subsidiary of T-Mobile US, Inc., a publicly traded company.

^{2/} Verizon’s Comments on the 2018 Biennial Review of Telecommunications Regulations, IB Docket No. 18-377, ET Docket No. 18-370, WT Docket No. 18-374, WC Docket No. 18-378, at 5 (filed Feb. 8, 2019) (“Verizon Comments”).

exchanges are truly block-for-block, the streamlined treatment that Verizon proposes should only apply when: 1) the geographic areas of the proposed spectrum blocks are identical; and 2) the affected frequency blocks are within the same spectrum band (for example, AWS-1 spectrum for AWS-1 spectrum and *not* AWS-1 spectrum for PCS spectrum).

Current Penalties Related to Interim Build Requirements

Verizon also recommends that the Commission repeal the current rules that govern interim build out requirements.^{3/} T-Mobile agrees that those rules have not, in some cases, achieved their intended purpose – to promote rapid deployment of spectrum to serve the public. Specifically, as T-Mobile has demonstrated with respect to spectrum held by DISH Network Corporation and its affiliates, entities subject to those rules can continue to warehouse spectrum until the end of the then-accelerated build out deadline, contrary to the public interest.^{4/} Nevertheless, simply advancing a final build out deadline to address a failure to timely deploy spectrum does nothing to ensure that spectrum is used to serve the public – the very purpose for build out regulations.

T-Mobile appreciates, as Verizon suggests, that the compilation of information necessary to satisfy interim build out reports and the submission of the relevant materials can be burdensome. However, interim build out obligations can, in theory, encourage timely deployment and ensure spectrum is put to efficient use. Therefore, rather than eliminating

^{3/} Verizon Comments at 6; *see, e.g.*, 47 C.F.R. § 27.14(t)(3).

^{4/} *See, e.g.*, Letter from Kathleen O'Brien Ham, Senior Vice President, Government Affairs, T-Mobile USA, Inc., to Mr. Donald Stockdale, Chief, Wireless Telecommunications Bureau (filed Oct. 25, 2018); Letter from Steve B. Sharkey, Vice President, Government Affairs, Technology and Engineering Policy, T-Mobile USA, Inc., to Mr. Donald Stockdale, Chief, Wireless Telecommunications Bureau (filed Jan. 29, 2019). These letters relate to AWS-4, Lower 700 MHz E Block, and H Block spectrum held respectively by DBSD Corporation, Lead Call Sign T070272001; Gamma Acquisition L.L.C., Lead Call Sign T060430001; Manifest Wireless L.L.C., Lead Call Sign WQJY944; and American H Block Wireless L.L.C., Lead Call Sign WQTX200.

interim build out obligations altogether, the Commission should reexamine those rules in a future proceeding to ensure that there are meaningful consequences for failure to meet them. For example, where licensees are not timely deploying their licensed spectrum, the spectrum should be made available for others to use, and not continue to be warehoused by the very entities that fail to use the spectrum in the first place.

Rules for Spectrum Lease Approvals

Verizon proposes that the Commission streamline its rules governing spectrum lease approvals.^{5/} Verizon complains that the Commission sometimes uses its “general approval procedures” even if the lease application meets the eligibility requirements for the “immediate approval” process.^{6/} While T-Mobile strongly favors elimination of unnecessary administrative burdens, it cautions the Commission against eliminating rules that preserve the Commission’s ability to evaluate competition and spectrum aggregation. Leases – particularly long-term *de facto* transfer leases – give lessees effective control over valuable spectrum resources. And, as Verizon’s lease and ultimate acquisition of spectrum held by XO Communications and Nextlink Wireless demonstrated,^{7/} spectrum leases can be interim measures leading to permanent control over the spectrum. If the Commission eliminates or abbreviates the current approval process for spectrum leases, parties may get the benefit of spectrum aggregation without Commission evaluation. Therefore, the Commission should retain its current provisions that permit it and the

^{5/} Verizon Comments at 6-7; *see, e.g.*, §§ 1.9020(e)(1), 1.9020(e)(2), 1.9030(e)(1), 1.9030(e)(2).

^{6/} *Id.*

^{7/} *See Application of Cellco Partnership d/b/a Verizon Wireless and Nextlink Wireless, LLC*, Memorandum Opinion and Order, 31 FCC Rcd 7767 (2016) (approving Verizon’s lease of Nextlink’s LMDS and 39 GHz spectrum); *Applications of XO Holdings and Verizon Communications Inc. For Consent to Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, 31 FCC Rcd 12501 (2016) (approving XO Communications and Verizon’s transfer of control).

public to assess the potential impact of the prospective lessee holding and operating the target spectrum.

Other Streamlining Measures

T-Mobile supports the following three additional measures that Verizon suggests will help streamline application processing and approval –

- Electronic Filing of Spectrum Subleasing Applications – The requirement for any forms to be submitted in hard copy is outdated and inefficient, and the Commission should update its processing capabilities to facilitate submission of subleasing applications on an electronic basis.^{8/}
- Eliminate Unnecessary and Unused Filings – Congress recently amended the Communications Act to consolidate and eliminate the submission of reports it requires of the Commission.^{9/} The Commission should do the same with respect to the entities it regulates.^{10/} As Verizon points out, in particular, the submission of Form 395 is unnecessary and duplicative of other federal, state, and local efforts, and this filing should be eliminated.^{11/}
- Pre-Closing Authorization for *Pro Forma* Transactions – In many transactions involving *pro forma* assignment or transfer of control, some authorizations are subject to prior approval procedures while others are subject to post-closing notifications. The

^{8/} See Verizon Comments at 7.

^{9/} See Consolidated Appropriations Act of 2018, Division P, Repack Airwaves Yielding Better Access for Users of Modern Services Act of 2018, Pub. L. 115–141, § 402, 132 Stat. 348 (2018) (“RAY BAUM’S Act”).

^{10/} See Verizon Comments at 7.

^{11/} See *id.* at 7, n.27 (citing how the Commission eliminated the § 22.321(c) Equal Employment Opportunities annual report filing requirement because it was duplicative).

Commission should standardize its approach to require only post-closing notification for all *pro forma* transactions.^{12/}

Respectfully submitted,

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^{12/} *Id.* at 8.